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March 13, 2019

BY HAND and ECF

The Honorable Nicholas G. Garaufis  
United States District Judge  
United States District Court  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: United States v. Keith Raniere, et al., 18 Cr. 204 (NGG)

Dear Judge Garaufis:

Defendant Keith Raniere respectfully writes in response to the government's letter requesting that the Court set April 15, 2019 as the deadline by which both the government and the defendants will submit their proposed jury charges, exchange witness lists, and exchange trial exhibits, final transcripts and translations.<sup>1</sup> (Dkt. 386.) We agree on April 15, 2019 as the date to exchange proposed jury charges, final transcripts and translations, but propose a date prior to the start of jury selection for witness lists and case-in-chief trial exhibits. Specifically, we ask for April 1, 2019 as the deadline for all parties to meet-and-confer regarding exhibits so that the parties do not duplicate efforts, and April 7, 2019 as the deadline to exchange trial exhibits.<sup>2</sup> These dates are appropriate for a case of this magnitude and is consistent with other scheduling orders in this district.

First, April 7, 2019 is the appropriate date to exchange exhibits and witness lists because this Court will call potential jurors to fill out questionnaires on April 8 and April 9, 2019. (See Dkt. 287; February 15, 2019 Minute Order.) On that date, the venire will be introduced to the parties, so that the venire can "make note of it [if they recognize anyone] on their questionnaire."

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<sup>1</sup> The government proposed April 8, 2019 as a date to "begin providing" 18 U.S.C. § 3500 material, but this request is now rendered moot by this Court's February 28, 2019 Order.

<sup>2</sup> We expect, as in all trials, that the defense exhibit list may need to be supplemented based on the government's proposed exhibits and its presentation of the evidence.

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(See 2/28/19 Tr. at 14.) It logically follows that the Court will likely read the names of witnesses as well, so that the potential jurors can make note of whether they are familiar with any of the potential witnesses on their questionnaire. However, without the parties' witness list, it will make selection in this manner impossible.

Second, the Court ordered that by April 11<sup>th</sup>, the parties must submit a list of "strikes by consent" for the first 150 potential jurors and that the Court "will need proposed follow-up questions from both sides." (2/28/19 Tr. at 15.) Again, without the parties' exhibit lists, this exercise will be futile for the parties. The parties may need to propose questions to the potential jurors to ask if admission of certain exhibits would make them unable to be fair. However, we will not be able to propose follow up questions without knowledge of what the government's intended exhibits are.

Third, exchange of exhibits three to four weeks before trial will allow the parties to move in limine if necessary with sufficient time for the Court to rule on such motions.

Finally, witness lists and exhibit lists four weeks before trial are consistent with recent trials that counsel has tried in this district. In United States v. Shkreli, where the parties picked a jury in the ceremonial courtroom from a venire of several hundred potential jurors, the parties exchanged exhibit lists, witness lists, voir dire requests, and requests to charge two months before trial. (United States v. Shkreli, 15 Cr. 637 (KAM) at Dkt. 147.) Similarly, in United States v. Venditto, the parties exchanged witness lists in advance of the venire filling out jury questionnaires.

Therefore, it would be practical, for the parties to meet-and-confer regarding witness and exhibit lists on April 1, 2019 and exchange witness lists and exhibit lists on April 7, 2019.

Respectfully submitted,

/s/

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Marc A. Agnifilo  
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cc: All Counsel (via ECF)